

BOARD OF ZONING APPEALS MEETING

TIPP CITY, MIAMI COUNTY, OHIO

April 16, 2014

Meeting	Chairman McFarland called this meeting of the Tipp City Board of Zoning Appeals to order at 7:30 p.m. which was held at the Tipp City Government Center, 260 S. Garber Drive, Tipp City, Ohio.
Roll Call	Roll call showed the following Board Members present: Mike McFarland, David Berrett, Isaac Buehler, and Mark Browning. Others in attendance: City Planner/Zoning Administrator Matthew Spring, and Board Secretary Kimberly Patterson.
Resignation	Mr. Matt Crawford resigned from the Board.
Citizens signing the registrar	Citizens attending the meeting: Larry Welti, Sandy Welti, Shannen Poulos, James Granger, Craig Jones, Susanne Mosier, Dale Mosier, Ben Mosier, Doug Berus, Jeen Snell, Chad New, Paul Lee, Clay Callahan, and Troy Fleiszig.
Board Minutes 03-19-2013	Chairman McFarland asked for discussion. There being none, Chairman McFarland moved to approve the March 19, 2014 meeting minutes as written , seconded by Mr. Berrett. Motion carried. Ayes: McFarland, Berrett, Browning, and Buehler. Nays: None.
Citizens Comments	There was none.
Administration of Oath	Mrs. Patterson swore in citizens and Mr. Spring.
Chairman's Introduction	Chairman McFarland explained the guidelines and procedures for the meeting and public hearings. He advised the applicant that a decision of the Board could be appealed to City Council within 10 days. If the Board granted the applicant's request, the applicant may file the appropriate permits after the 10-day waiting period has expired.
New Business Case No. 05-14 Welti Six Variance Requests	Case No. 05-14: Lawrence and Sandra Welti, 25 N. Fourth Street, Inlot 4034- The applicant requested the following: <ol style="list-style-type: none">1. A variance of 0.5' to the maximum height of 3.5' for fences, walls, and hedges in any front or corner side yard as noted in Code §154.059(D)(13)(e)(1).2. A variance of 2' to the minimum setback of 3' for fences, walls, and hedges in any front or corner side yard as noted in Code §154.059(D)(13)(f)(1).3. A variance to Code §154.059(D)(9) to allow for the placement of a patio (courtyard) in a front yard rather than a side or rear yard.

4. A variance to Code §154.059(D)(9) to allow for the placement of a patio (courtyard) closer than 3 feet to an adjacent property line.
5. A variance of 1.5' to Code §154.059(D)(9) to the minimum screening height of 4' to allow for the placement of a courtyard/patio area that is closer than 8 feet to an adjacent property line, that would be screened by an evergreen hedge or fence 2.5' in height.
6. A variance to Code §154.059(D)(13)(f)(5) to allow for the placement of a fence, wall, or hedge in a front yard that is 100% opaque rather than 50% opaque when viewing the primary face of the fence or wall, and shall be constructed so as to provide a ratio of solid portion to open portion not to exceed 1 to 1.

Zoning District: R-2/LD - Urban Residential/Legacy Overlay Zoning District
Zoning Code Section(s): §154.059(D)(9), §154.059(D)(13)

Mr. Spring stated that the applicant requested the following variances was association with the proposed construction of a courtyard/patio area in the front yard of (N. Fourth Street) of the corner lot located at 25 N. Fourth Street (N Fourth St. & W. Walnut St.). The proposed ± 800 sq. ft. paved (brick pavers) courtyard/patio area would be enclosed by a ± 2.5' brick wall and include paved steps from the home to the courtyard/patio area, and steps from the courtyard/patio area to the public sidewalk (N. Fourth St.).

Variance 1

Mr. Spring stated that the applicant requested a variance of 0.5' to the maximum height of 3.5' for fences, walls, and hedges in any front or corner side yard for the property located at 25 N. Fourth Street, as noted in Code §154.059(D)(13)(e)(1) which states:

(e) *Residential districts - height.*

1. *Front yard and corner side yard. Fences, walls and hedges shall not exceed 3-1/2 feet in height in any front or corner side yard, except as otherwise permitted in this chapter.*

Mr. Spring also stated that the proposed brick wall would be located in the front yard (N. Fourth Street) of the property and be 2.5' in height. However, a small section (length of ± 6') at the southwest corner would be 4' tall. Therefore a variance of 0.5' was required ($4 - 3.5 = 0.5$).

Variance 2

Mr. Spring stated that the applicant requested a variance of 2' to the minimum setback of 3' for fences, walls, and hedges in any front or corner side yard for the property located at 25 N. Fourth Street, as noted in Code §154.059(D)(13)(f)(1) which states:

(f) *Residential Districts - construction standards.*

1. *Fences, walls and hedges shall not be located closer than 3 feet to any front yard lot line or street side yard lot line.*

Mr. Spring also stated that the proposed brick wall would be located in the front yard (N. Fourth Street) of the property and have a setback of 1'. Therefore a variance of 2' was required ($3 - 1 = 2$).

Variance 3

Mr. Spring stated that the applicant requested a variance to allow for the placement of a patio (courtyard) in a front yard rather than a side or rear yard for the property located at 25 N. Fourth Street, as noted in Code §154.059(D)(9) which states:

*...Patios, open porches and car ports **may be located in side and rear yards** provided they are not closer than 3 feet to any adjacent property line. If located closer than 8 feet, they shall be screened by an evergreen hedge or fence not less than 4 feet in height and maintained in good condition. In case of a corner lot, no patios or porches shall be closer to the side street lot line than the least depth required for such side yard.*

The proposed courtyard/patio area would be located in the front yard (N. Fourth Street) of the property located at 25 N. Fourth Street. Therefore a variance to Code §154.059(D)(9) was required.

Variance 4

Mr. Spring stated that the applicant requested a variance of 2' to the minimum setback of 3' from any adjacent property line for patios, open porches and car ports as noted in Code in Code §154.059(D)(9) which states:

*...Patios, open porches and car ports may be located in side and rear yards **provided they are not closer than 3 feet to any adjacent property line**. If located closer than 8 feet, they shall be screened by an evergreen hedge or fence not less than 4 feet in height and maintained in good condition. In case of a corner lot, no patios or porches shall be closer to the side street lot line than the least depth required for such side yard.*

The proposed courtyard/patio area would be located 1 foot from the front property line. Therefore a variance of 2' was required ($3 - 1 = 2$).

Variance 5

Mr. Spring stated that the applicant requested a variance of 1.5' to the minimum screening height of 4' to allow for the placement of a courtyard/patio area that was closer than 8 feet to an adjacent property line, that would be screened by an evergreen hedge or fence 2.5' in height as noted in Code §154.059(D)(9) which states:

...Patios, open porches and car ports may be located in side and rear yards provided they are not closer than 3 feet to any adjacent property line. **If located closer than 8 feet, they shall be screened by an evergreen hedge or fence not less than 4 feet in height and maintained in good condition.** In case of a corner lot, no patios or porches shall be closer to the side street lot line than the least depth required for such side yard.

The proposed screening fence (wall) would be located 1' from the front (N. Fourth Street) property line and be 2.5' tall. Therefore a variance of 1.5' was required ($4 - 2.5 = 1.5$).

Variance 6

Mr. Spring stated that the applicant seeks a variance to Code §154.059(D)(13)(f)(5) to allow for the placement of a fence, wall, or hedge in a front yard that is 100% opaque rather than 50% opaque when viewing the primary face of the fence or wall, and shall be constructed so as to provide a ratio of solid portion to open portion not to exceed 1 to 1.

The proposed brick wall would be located in the front yard (N. Fourth Street) and be 100% opaque (ratio of solid portion to open portion exceeds 1 to 1). Therefore a variance to Code §154.059(D)(13)(f)(5) was required.

Mr. Spring noted the Board of Zoning Appeals had jurisdiction in this case to grant variances #1 and #3-#6 per Code 154.175(E)(9) as follows:

E. *"The Board may grant variances only in the following instances and no others:*

9. *To vary the design standards for principal and accessory residential uses, other than those applying to lot area per dwelling unit, and minimum lot area or width. Accessory residential uses include, but are not limited to: private garages, carports, storage sheds, swimming pools, patios, open porches, tennis courts, and fences.*

Mr. Spring also noted that the Board of Zoning Appeals had jurisdiction in this case to grant variance #2 as noted above per Code §154.175(E)(1):

E. *"The Board may grant variances only in the following instances and no others:*

1. *To permit any yard or setback less than a yard or setback required by the applicable regulations.*

Staff stated the following procedural requirements that must be met regarding the granting of variances as noted in Zoning Code Section(s) §154.175(C):

"The Board shall make written findings of fact, based on the particular evidence presented to it, that each and every one of the following standards for a variance are met by the application:

- (1) The particular physical surroundings, shape, or topographical condition of the specific property would cause particular and extraordinary hardship to the owner if the literal provisions of the zoning code were followed;*
- (2) The alleged hardship has not been created by the applicant for the variance after the adoption of the zoning code;*
- (3) The granting of a variance will not be materially detrimental to the public health, safety, convenience, or general welfare or injurious to other property or improvements in the vicinity;*
- (4) The granting of a variance will not constitute a grant of a special privilege, denied by this chapter to other property in the same zoning district, or permit a use not expressly allowed by this chapter, or permit a use prohibited expressly or by implication to other property in the same district. No nonconforming use of neighboring lands, structures or buildings in the same district, and no permitted or non-conforming use of lands, structures, or buildings in other districts shall be considered grounds for the granting of a variance."*

Also the requirement of Zoning Code Section(s) §154.175(D), which states:

"The Board shall further make a written finding that the reasons set forth in the application justify the granting of a variance, and that the variance is the minimum variance that will make possible the reasonable use of the property. When a variance is denied, a written statement shall set forth the reason(s) therefore.

Mr. Spring noted that if the requested variance was approved, the applicant would be required to obtain an approved zoning permit prior to the start of any proposed construction.

Chairman McFarland asked if there were any further questions for Mr. Spring. There were none.

Mr. Berrett inquired if there were any neighbor's comments received. There were none.

Mr. Berrett inquired if there were any concerns or comments from the Safety Director regarding the height of the wall obstructing the view of traffic. Mr. Spring stated that Staff specifically reviewed the issue and

was in agreement with the small section being six foot and location as noted in the staff report.

Mr. Lawrence and Mrs. Sandra Welti, 25 N. Fourth Street, approached the dais. Mrs. Welti stated that there was no back or side yard and the front yard was the only option for placement of courtyard.

Mr. Berrett inquired the level of the courtyard. Mr. Welti stated that the patio deck would be approximately 15 to 18" off the sidewalk and would be equal to the highest sloped part of the yard.

Mr. Berrett also inquired about the proposed runoff. Mr. Welti stated that the patio would be sloped with drainage at the front to run off into the gutter. Mrs. Welti noted that under the patio would be pervious.

Mr. Browning asked if there would be anything placed alongside the structure. Mrs. Welti stated there were only 6' and along the street was also limited. The Welti's did contemplate utilizing the side but was shaded and the area was limited.

Board Members found the following regarding the request: there were two other exterior doors on the structure; the lot was a challenge; stone to match structure foundation and mesh very well;

Mr. Berrett inquired the safety of the solid wall versus the one to one ration. Mr. Spring stated that up to 2.5 feet the wall complied with sight line code and City Engineer approved the 2.5 feet.

Chairman McFarland asked if there were any further questions for Mr. and Mrs. Welti. There were none.

Chairman McFarland asked if there was anyone present who wished to speak in favor. There were none.

Chairman McFarland asked if there was anyone present who wished to speak in opposition of the request. Mr. Paul Lee, 152 W. Franklin, approached the dais. Mr. Lee stated that he was not totally opposed to the request and that he actually sold the Welti's the house and thought that they had done a nice job with what they had done. Mr. Lee noted that he hated to see all of the green space in the front be completely done away with. Mrs. Welti mentioned that there would be 2' to landscape in front of the wall. Mr. Lee asked if there were provisions that could be made to put patio on the side to retain green space on the front would be his only objection.

Chairman McFarland asked for further Board Member comments. Mr. Browning was concerned with setting a precedence downtown with the

placement of a patio/courtyard in the front yard. Mr. Berrett understood the concern but did not see many churches being turned into homes.

Mr. Buehler inquired if there would be furniture on the proposed patio. Mr. Welti stated that he imagined there would be and yes would include a grill. Mr. Buehler and Mr. Browning did not like a grill in the front yard and thought that it may bother other people and why the code was there in the first place, hence the reasoning for inquiring the placement in the side yard. Mr. Welti asked if there were codes against grills in the front yard or just not to be in the front yard or just the fact that it's not a patio. Mr. Welti also asked if a person could take their grill into the front yard if you don't have a front patio there. Mr. Browning and Mr. Buehler both said yes that a person could take their grill to the front yard but not many people do or do not store the grill in the front.

Mrs. Welti stated that the reasoning for the courtyard was that they had neighbors that they would like to be able to entertain in an outside area during the nicer weather. Mrs. Welti noted that they would not be grilling outside every day.

Chairman McFarland inquired if there was a map that showed the distance of the sidewalk on Walnut to the building. Mr. Spring stated that there was 8.1' to the north of the property and 6.17' to the south.

Chairman McFarland stated that the uniqueness of the building and the placement had created a hardship on what could be done, and what was requested seemed to be the best use of the area. Chairman McFarland also noted that he could see the other Board Members point of few.

Chairman McFarland asked for further discussion. There being no further discussion each request was addressed accordingly.

Variance 1

Mr. Berrett **moved to grant a variance of 0.5' to the maximum height of 3.5' for fences, walls, and hedges in any front or corner side yard as noted in Code §154.059(D)(13)(e)(1) (for the section of wall as specifically denoted in this staff report) for the property located at 25 N. Fourth Street**, seconded by Chairman McFarland. **Motion carried.** Ayes: Berrett, McFarland, and Buehler. Nays: Browning.

Variance 2

Mr. Berrett **moved to grant a variance of 2' to the minimum setback of 3' for fences, walls, and hedges in any front or corner side yard as noted in Code §154.059(D)(13)(f)(1) for the property located at 25 N. Fourth Street**, seconded by Chairman McFarland. **Motion carried.** Ayes: Berrett, McFarland, and Buehler. Nays: Browning.

Variance 3

Mr. Berrett moved to grant a variance to Code §154.059(D)(9) to allow for the placement of a patio (courtyard) in a front yard rather than a side or rear yard for the property located at 25 N. Fourth Street, seconded by Chairman McFarland. Motion tabled due to tie vote 2-2. Ayes: Berrett and McFarland. Nays: Browning and Buehler.

Variance 4

Mr. Berrett moved to grant a variance to Code §154.059(D)(9) to allow for the placement of a patio (courtyard) closer than 3 feet to an adjacent property line for the property located at 25 N. Fourth Street, seconded by Chairman McFarland. Motion tabled due to tie vote 2-2. Ayes: Berrett and McFarland. Nays: Buehler and Browning.

Variance 5

Mr. Berrett moved to grant a variance of 1.5' to Code §154.059(D)(9) to the minimum screening height of 4' to allow for the placement of a courtyard/patio area that is closer than 8 feet to an adjacent property line, that would be screened by an evergreen hedge or fence 2.5' in height for the property located at 25 N. Fourth Street, seconded by Chairman McFarland. Motion tabled due to tie vote 2-2. Ayes: Berrett and McFarland. Nays: Browning and Buehler.

Variance 6

Mr. Berrett moved to grant (or deny) a variance to Code §154.059(D)(13)(f)(5) to allow for the placement of a fence, wall, or hedge in a front yard that is 100% opaque rather than 50% opaque when viewing the primary face of the fence or wall, and shall be constructed so as to provide a ratio of solid portion to open portion not to exceed 1 to 1 for the property located at 25 N. Fourth Street, seconded by Chairman McFarland. Motion carried. Ayes: Berrett, McFarland, and Buehler. Nays: Browning.

Mr. Spring stated that variances three, four, and five were tied and would automatically become an agenda item for next month's regularly scheduled meeting.

**Case No. 06-14
Mosier
Side Setback
Variance**

Case No. 06-14: Suzanne Mosier – Up North Construction for Clayton Callahan – owner, 1945 Cider Mill Way - Inlot 3782 – Applicant requested a variance of 0.67' (8.04") to the required side setback of 7.5' noted in Ordinance 33-03 for primary structures within the Curry Branch Subdivision – Phase 2.

Zoning District: PR – Planned Residential Zoning District

Zoning Code Section(s): Ordinance 33-03 – Curry Branch Subdivision – Phase 2

Mr. Spring stated that in association with the construction of a new single family residence located at 1945 Cider Mill Way, the applicant requests

a variance of 0.67' to the required side setback of 7.5' noted in Ordinance 33-03 for primary structures within the Curry Branch Subdivision – Phase 2.

Ordinance 33-03 states:

Side lot setbacks shall be 7' 6".

Mr. Spring also stated that the foundation of the proposed new single family residence was canted slightly during construction, thus placing the northwest corner of the structure into the side yard setback. The structure would be 6.83' from the side property line; therefore a variance of 0.67' ($7.5 - 6.83 = 0.67$) was needed.

Mr. Spring stated that the Board of Zoning Appeals had jurisdiction in this case to grant both variances as noted above per Code §154.175(E)(1):

E. *"The Board may grant variances only in the following instances and no others:*

1. *To permit any yard or setback less than a yard or setback required by the applicable regulations.*

Staff noted the following procedural requirements that must be met regarding the granting of variances as noted in Zoning Code Section(s) §154.175(C):

"The Board shall make written findings of fact, based on the particular evidence presented to it, that each and every one of the following standards for a variance are met by the application:

- (1) *The particular physical surroundings, shape, or topographical condition of the specific property would cause particular and extraordinary hardship to the owner if the literal provisions of the zoning code were followed;*
- (2) *The alleged hardship has not been created by the applicant for the variance after the adoption of the zoning code;*
- (3) *The granting of a variance will not be materially detrimental to the public health, safety, convenience, or general welfare or injurious to other property or improvements in the vicinity;*
- (4) *The granting of a variance will not constitute a grant of a special privilege, denied by this chapter to other property in the same zoning district, or permit a use not expressly allowed by this chapter, or permit a use prohibited expressly or by implication to other property in the same district. No nonconforming use of neighboring lands, structures or buildings in the same district, and no permitted or non-conforming use of lands, structures, or buildings in other districts shall be considered grounds for the granting of a variance."*

Also the requirement of Zoning Code Section(s) §154.175(D), which states:

"The Board shall further make a written finding that the reasons set forth in the application justify the granting of a variance, and that the variance is the minimum variance that will make possible the reasonable use of the property. When a variance is denied, a written statement shall set forth the reason(s) therefore.

Mr. Spring noted the following:

- The side yard setback discrepancy was discovered through the pre-framing setback survey required by the City of Tipp City for all new home construction.
- The property included 5' utility & drainage easements on the both side property lines and 10' utility & drainage easements on the front and rear property lines. The proposed home would not encroach into these easements.
- The applicant would be required to obtain an amended zoning permit prior to the start of framing.

Mr. Spring noted that if the requested variance was approved, the current zoning permit on file would be amended.

Chairman McFarland asked if there were any further questions for Mr. Spring. There were none.

Mr. Berrett inquired if there were any neighbor's comments received. There were none.

Mr. Dale and Susan Mosier, 5246 S. Co. Rd. 25A, Tipp City, approached the dais. Mr. Mosier stated that this was a human error and that the Contractor was here to elaborate.

Chairman McFarland inquired if this situation happened frequently when building homes. The Mosier's stated it was not.

Mr. Berrett asked if there was a reason why the building was put right on the property line. Mr. Mosier stated that Choice One Engineering performs all of their work and the reason for the placement of the structure was to keep the driveway away from water and sewer connection.

Doug Bernum, 12120 McCartyville Road, Arcanum, Ohio approached the dais. Mr. Bernum stated that a total station layout system was utilized to position the foundation on the lot. The surveyor had set offset stakes 8' off of the property line. The construction foreman on site made a mistake and had the wrong point on the total station layout system. Mr.

Bernum also stated that he had been in business for almost 35 years and had completed approximately 5,000 to 6,000 foundations and that this was the first time this had ever happened. Procedure adjustments were implemented on their end to eliminate the probability of error again. Mr. Bernum mentioned that he took full responsibility and it was his mistake.

Mr. Berrett stated that he spoke with the Curry Branch Home Owner's Association President and that he had no issue with the request.

Chairman McFarland asked if there were any further questions for Mr. Mosier or Mr. Bernum. There were none.

Chairman McFarland asked if there was anyone present who wished to speak in favor. Shannen Poulos, 1949 Cider Mill Way, approached the dais. Mrs. Poulos stated that she was the neighbor who was directly affected. Mrs. Poulos requested that the Board grant the variance without further delay or costs.

Mrs. Poulos stated that she measured the footer when it was initially dug because it was extremely close to her house. Mrs. Poulos said that she called the Zoning Board for the city and she spoke with the Secretary and asked how far away the lot line was her house; she was told 8.3'. If the hole was 11' away from her home meant that the hole was 3' from the lot line so even putting in the forms and say a 3' space between the wall to the form in the wall she expressed to staff that it was noticeably closer than the allotted distance. Mrs. Poulos stated that she asked for a return call and for someone to come out and look at the placement of the forms. Mrs. Poulos noted that she did not get a call back and a week later a gentleman from the utilities was on site and she asked him what he thought and if he concurred if it looked too close. She called again and left a message in the general voice box and still not get a call back.

Susan Mosier knocked on her door one morning and explained to her what the problem was and in the meantime had she had gotten a return phone call they might not be there today.

Mr. Spring stated that no City Staff was a paid surveyor and that was the reason for implementing the policy of having a professional surveyor survey the lot. City Staff could not vouch Mr. Mosier's positioning of the structure.

Chairman McFarland asked if there was anyone present who wished to speak in opposition of the request. There was none.

Chairman McFarland asked for further discussion. There being no further discussion, Mr. Berrett **moved to grant a variance of 0.67' to the required side setback of 7.5' noted in Ordinance 33-03 for primary structures**

within the Curry Branch Subdivision – Phase 2 for the single family residence located at 1945 Cider Mill Way, seconded by Mr. Browning. Motion carried. Ayes: Berrett, Browning, Buehler, and McFarland. Nays: None.

**Case No. 07-14
Rear Setback
Variance**

Case No. 07-14: Jeen Snell, 1240 Hermosa Drive, Troy - Inlot 3874 – The applicant requested a variance of 13.5' to the required rear setback of 25' noted in Ordinance 09-04 for primary Zero Lot Line structures within the Rosewood Creek Subdivision – Phase 1.

Zoning District: PR – Planned Residential Zoning District

Zoning Code Section(s): Ordinance 09-04 – Rosewood Creek Subdivision – Phase 1

Mr. Spring stated that in association with a proposed expansion of the single family residence located at 1240 Hermosa Drive (sunroom addition), the applicant requested a variance of 13.5' to the required rear setback of 25' noted in Ordinance 09-04 for primary structures within the Rosewood Creek Subdivision – Phase 1.

Ordinance 09-04 requires: Setbacks – Zero Lot Line – Rear – 25'

The proposed residential expansion would be 11.5' from the rear property line; therefore a variance of 13.5' ($25 - 11.5 = 13.5$) was needed.

Mr. Spring stated that the Board of Zoning Appeals had jurisdiction in this case to grant both variances as noted above per Code § 154.175(E)(1):

E. "The Board may grant variances only in the following instances and no others:

- 1. To permit any yard or setback less than a yard or setback required by the applicable regulations.*

Staff noted the following procedural requirements that must be met regarding the granting of variances as noted in Zoning Code Section(s) § 154.175(C):

"The Board shall make written findings of fact, based on the particular evidence presented to it, that each and every one of the following standards for a variance are met by the application:

- (1) The particular physical surroundings, shape, or topographical condition of the specific property would cause particular and extraordinary hardship to the owner if the literal provisions of the zoning code were followed;*
- (2) The alleged hardship has not been created by the applicant for the variance after the adoption of the zoning code;*
- (3) The granting of a variance will not be materially detrimental to the public health, safety, convenience,*

or general welfare or injurious to other property or improvements in the vicinity;

- (4) The granting of a variance will not constitute a grant of a special privilege, denied by this chapter to other property in the same zoning district, or permit a use not expressly allowed by this chapter, or permit a use prohibited expressly or by implication to other property in the same district. No nonconforming use of neighboring lands, structures or buildings in the same district, and no permitted or non-conforming use of lands, structures, or buildings in other districts shall be considered grounds for the granting of a variance."

Also the requirement of Zoning Code Section(s) §154.175(D), which states:

"The Board shall further make a written finding that the reasons set forth in the application justify the granting of a variance, and that the variance is the minimum variance that will make possible the reasonable use of the property. When a variance is denied, a written statement shall set forth the reason(s) therefore.

Mr. Spring noted the following:

- The proposed addition would be ± 14' x 16' (± 224 sq. ft.) and ± 17.5' tall.
- The property included 5' utility & drainage easements on the right (west) side property line and 10' utility & drainage easement on the front property line. The proposed addition would not encroach into these easements.

Mr. Spring noted that if the requested variance was approved, the applicant would be required to obtain an approved zoning and building permits prior to the start of any proposed construction.

Chairman McFarland asked if there were any further questions for Mr. Spring. There were none.

Mr. Berrett inquired if there were any neighbor's comments received. There were none.

Mr. Chad New, with Shreve's Construction, approached the dais. Chairman McFarland inquired the width of the current slab. Mr. New stated that would be approximately 14'w x 12'd. The sunroom would be placed 3' in from the property line so the overhang would not infringe upon the neighboring property.

Jeen Snell, owner 1240 Hermosa Drive, Troy, Ohio approached the dais. Mrs. Snell stated that she had not spoken to her neighbor since she had

started the process but did present the project to him and he had no objections. Mr. Spring stated that he spoke with the neighbor on the phone to answer questions but he did not have a comment on the request.

Chairman McFarland realized that he had known the applicant and decided to recuse himself from the rest of the request discussion.

Vice Chairman Berrett asked if there were any further questions for Mr. New or Mrs. Snell. Mr. Browning stated that because of the structure being a duplex and the proposed addition being so close to the property line this would create a barrier to the neighbor's view which was much larger than the privacy fence was. Mr. Browning also stated that even though that resident had no issue with the request at this point but maybe the next person who lives there might and may affect the current resident's property value.

Mr. Browning also added that there was no existing hardship. Mr. Buehler agreed.

Mr. Browning noted that the setback requirement is 25' and there was no room to put a building that conformed to anything in the rear lot. The existing structure was already at the required 25' setback.

Mr. New stated that the request was forwarded to Bruns Development, the current representatives of the HOA, for review. Mr. Spring stated that he had not heard from them at this point but the applicant would not be able to move forward with any type of construction and acquire a permit without the approval from the HOA.

Vice Chairman Berrett asked if there was anyone present who wished to speak in favor. There were none.

Vice Chairman Berrett asked if there was anyone present who wished to speak in opposition of the request. There was none.

Vice Chairman Berrett asked for further discussion. There being no further discussion, Mr. Berrett **moved to grant a variance of 13.5' to the required rear setback of 25' noted in Ordinance 09-04 for primary structures within the Rosewood Creek Subdivision – Phase 1 for the Zero Lot Line, single family residence located at 1240 Hermosa Drive**, seconded by Mr. Buehler. **Motion carried.** Ayes: Berrett, Buehler, and Browning. Nays: None. Chairman McFarland abstained from the vote.

Old Business

There was none.

Miscellaneous

Mr. Spring stated that there would be a pre-meeting study session prior to the May 21, 2014 meeting at 6:30 p.m. to study the new Zoning Code. Mr. Spring will send out an email reminder.

Adjournment

There being no further business, Chairman McFarland **moved to adjourn the meeting**, seconded by Mr. Berrett and unanimously approved. **Motion carried.** Chairman McFarland declared the meeting adjourned at 8:34 p.m.


Board Chairman, Mike McFarland

Attest: 
Mrs. Kimberly Patterson, Board Secretary